

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA**

In re

Case No. 06-80090-WRS
Chapter 13

HENRY O. NEWBURN JR.
INDYIA B. NEWBURN,

Debtors

MEMORANDUM DECISION

This Chapter 13 case came before the Court for hearing on July 26, 2006, upon the motion to dismiss filed by Linda S. Newburn. (Doc. 62). Linda Newburn was present by counsel Blake Oliver and the Debtor was present by counsel Charles M. Ingram, Jr.

Linda S. Newburn is the former spouse of Debtor Henry O. Newburn and is a party to an adversary proceeding to determine whether certain obligations due her under their divorce decree are “in the nature of support.” The point is of more than academic interest as obligations in the nature of support must be paid in full, while other obligations may be paid pro rata with other unsecured debts owed by the Debtors. The Adversary Proceeding is set for trial on November 13, 2006.

Linda Newburn claims that her former spouse has failed to pay certain amounts due under the divorce decree. However, even if this is true, she has not demonstrated that this is sufficient cause, within the meaning of 11 U.S.C. § 1307(c) so as to cause the dismissal of this bankruptcy case. The text of Section 1307(c) does not support such a claim and she has not provided any

authority in support of her position. As the movant has not made a sufficient showing of cause for dismissal, her motion will be denied by way of a separate order.

Done this 17th day of August, 2006.

/s/ William R. Sawyer
United States Bankruptcy Judge

c: Charles M. Ingram Jr., Attorney for Debtor
Marion E. Wynne, Attorney for Creditor
Curtis C. Reding, Trustee